
(2025) 08 CAT CK 0302

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 1369 Of 2016

Natthu Lal, S/o Todi Ram

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 06-08-2025

Acts Referred:

Indian Penal Code, 1860 — Section 302, 504, 506
Railway Servants (Discipline & Appeal) Rules, 1968 — Rule 14(1)

Citation : (2025) 08 CAT CK 0302

Hon'ble Judges : Om Prakash VII, Member (J); Mohan Pyare, Member (A)

Bench : Division Bench

Advocate : Anil Kumar Singh, Bashist Tiwari

Final Decision : Allowed

Judgement

Om Prakash VII, Member (J)

1. Shri Anil Kumar Singh, learned counsel for the applicant and Shri Bashist Tiwari, learned counsel for the respondents, are present and heard.

2. The instant original application has been filed seeking following relief:

“(i) To quash the order dated 06-04-2016 and 29-01-2015 passed by the respondent No.2 and 5.

(ii) To direct the respondents to grant his retiral benefits as per law forthwith with 18% interest till the actual date of payment.

3. Brief facts of the case as narrated in the O.A. are that the applicant was working as helper grade-I in the respondents' department and was to be superannuated on 31.01.2015. During his service period as case crime no. 360/2003 was registered under section 302, 504, 506 IPC at police station concerned. Applicant was also implicated in the aforesaid case and he was taken into custody by the police and was sent to jail. Thereafter he was released on bail by the Hon'ble High Court. After being released on bail, the applicant moved

representation before the competent authority to rejoin the duty and he was permitted and the applicant also joined the duty. In the meantime, a charge sheet was issued against the applicant for unauthorised absence, and the applicant made a reply. Trial Court after concluding the trial convicted and sentenced the applicant for the offense under section 302 IPC for life imprisonment with a fine of Rs. 5000/-. Again the applicant surrendered before the Court concerned and he was taken into custody. Applicant filed an appeal before the Hon'ble High Court and which was admitted and applicant was released on bail. After releasing on bail, applicant moved an application for permission to rejoin the duty and he was permitted and in lieu thereof he joined the duty. It is further averred that applicant was to be superannuated on 31.01.2015 and a show cause notice was issued against him taking recourse to the provision of Rule 14(1) of the Railway Servants (Discipline & Appeal) Rules, 1968. Applicant filed reply. Disciplinary authority just two days before his superannuation passed the impugned order removing the applicant from services. Against the order of removal the applicant preferred an appeal which was also dismissed without considering the ground taken by the applicant. It is also mentioned in the O.A. that no retiral benefits was given to the applicant. Thus feeling aggrieved, the applicant filed the instant O.A.

4. Per contra, respondents have filed their Counter Affidavit refuting the facts disclosed in the OA and submitted that the impugned order passed by the respondents are in accordance with law. A show cause notice has been issued to the applicant as mandated under Rule 14(1) of the Railway Servants (Discipline & Appeal) Rules, 1968. Disciplinary authority passed the order considering the reply submitted by the applicant and there was no occasion to afford opportunity of hearing or to conduct a regular enquiry as the applicant was removed from service due to conviction in a criminal case. Disciplinary authority as well as appellate authority both have taken into the consideration the facts and circumstances of the case and the law applicable in the matter. Orders passed by the authority concerned are in accordance with law. Since the applicant has been removed from service, thus no question arises to release their retiral benefits. It is further mentioned in the counter that there is no illegality, infirmity or perversity in the impugned order and hence O.A. lacks merit and is liable to be dismissed.

5. A rejoinder affidavit has also been filed by the applicant controverting the facts disclosed in the Counter Affidavit and reiterating the same facts as narrated in the O.A.

6. We have heard the learned counsel for the parties.

7. Submission of learned counsel for the applicant is that he was working in the respondent's department and on dated 31.01.2015, he was to be superannuated. An FIR had been lodged as crime no. 306/2003 under section 302, 504,506, I.P.C. at the police station CB Ganj, District Bareilly. Applicant was also implicated in the aforesaid case along with other co-accused. Applicant appeared before the

trial court and after conclusion of trial, applicant was convicted and by that time he was in service. After conviction on dated 03.05.2010, applicant surrendered himself before the competent Court and then was sent to jail. An appeal was filed before the Hon'ble Allahabad High Court wherein he was released on bail. He preferred application before the competent authority for joining the duty and he was permitted, then he joined the duty. A charge sheet for unauthorised absence had also been issued to which applicant replied, further show cause notice was issued under Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968. Applicant replied to the notice. Thereafter disciplinary authority passed the order removing the applicant from service. No retiral benefit was released to the applicant. An appeal was preferred against the order passed by disciplinary authority. No opportunity of hearing was afforded at any stage to the applicant. Learned counsel for the applicant further argued that removal order was passed only to deprive the applicant from the retiral benefits. Once on releasing on bail in the criminal appeal filed before the Hon'ble High Court the applicant was permitted to join the services and he continued in the service till his removal order was passed, thus, invoking the provisions of Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968 just before two days of superannuation to remove the applicant from services is illegal. He further argued that action of the respondents was arbitrary, thus argued to allow the O.A and set aside the impugned orders directing the respondents to release the post retiral benefits to the applicants.

8. Learned counsel for the respondents argued that applicant was involved in a criminal case as disclosed hereinabove during his service period and he was also taken into custody. Later on, he was released on bail and was permitted to join the duty. When applicant was convicted in the aforesaid criminal case by the sessions Court concerned, he was taken into custody again and thereafter he was released on bail in the criminal appeal filed before the Hon'ble High Court. But conviction and sentence imposed upon the applicant was not stayed nor suspended. Punishment imposed upon the applicant was for life imprisonment along with fine. Thus, respondents have rightly invoked the jurisdiction under Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968 and has rightly removed the applicant from services. He further submitted that appellate authority has also considered the entire facts and has rightly dismissed the appeal. Whatever procedure is prescribed to be followed at this stage were followed by the disciplinary authority, thus there is no illegality or perversity in the impugned orders and O.A. lacks merit, hence liable to be dismissed.

9. We have considered the rival submissions and gone through the entire records.

10. Before discussing the submissions raised across the bar, it will be useful to quote paragraph No. 127 of *Union of India v. Tulsiram Patel*, (1985 AIR (Supreme Court) 1416), which runs as under:

"Not much remains to be said about clause (a) of the second proviso to Article 311(2). To recapitulate briefly, where a disciplinary authority comes to know that

a government servant has been convicted on a criminal charge, it must consider whether his conduct which has led to his conviction was such as warrants the imposition of a penalty and, if so, what that penalty should be. For that purpose it will have to peruse the judgment of the criminal court and consider all the facts and circumstances of the case and the various factors set out in Challappan's case. This, however, has to be done by it ex parte and by itself. Once the disciplinary authority reaches the conclusion that the government servant's conduct was such as to require his dismissal or removal from service or reduction in rank he must decide which of these three penalties should be imposed on him. This too it has to do by itself and without hearing the concerned government servant by reason of the exclusionary effect of the second proviso. The disciplinary authority must, however, bear in mind that a conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned government servant. Having decided which of these three penalties is required to be imposed, he has to pass the requisite order. A government servant who is aggrieved by the penalty imposed can agitate in appeal, revision or review, as the case may be, that the penalty was too severe or excessive and not warranted by the facts and circumstances of the case. If it is his case that he is not the government servant who has been in fact convicted, he can also agitate this question in appeal, revision or review. If he fails in all the departmental remedies and still wants to pursue the matter, he can invoke the court's power of judicial review subject to the court permitting it. If the court finds that he was not in fact the person convicted, it will strike down the impugned order and order him to be reinstated in service. Where the court finds that the penalty imposed by the impugned order is arbitrary or grossly excessive or out of all proportion to the offence committed or not warranted by the facts and circumstances of the case or the requirements of that particular government service the court will also strike down the impugned order. Thus, in *Shankar Dass v. Union of India and another*, [1985] 2 S.C.C. 358, this Court set aside the impugned order of penalty on the ground that the penalty of dismissal from service imposed upon the appellant was whimsical and ordered his reinstatement in service with full back wages. It is, however, not necessary that the Court should always order reinstatement. The Court can instead substitute a penalty which in its opinion would be just and proper in the circumstances of the case".

11. In this matter as is evident from the record that one FIR was lodged against the applicant in the year 2003 as crime no. 306/2003 under section 302, 504,506, I.P.C. Applicant was taken into custody, he was released on bail thereafter he was permitted to join the duty. Lastly in trial, the applicant was convicted and sentenced for the offence under section 302 IPC for life imprisonment. He surrendered before the Court concerned and was taken into custody. An appeal was preferred by him before the Hon'ble Allahabad High Court as criminal appeal no. 3547/2010 and in the appeal , he was allowed on bail vide order dated 06.12.2010. Thereafter he applied before the respondents for permitting him to join the duty. Record also reveals that on dated

19.01.2011, he was permitted to join the duties and he continued in the service till 29.01.2015 till his removal from service just two days before his superannuation. Perusal of the record also reveals that initially charge sheet was issued against the applicant but what was the final outcome of the chargesheet has not been brought on record. Record further reveals that a show cause notice was also given to the applicant and reply was also submitted and considering the fact disclosed in the reply he was removed from service observing that conviction and sentence has not been stayed or suspended. Departmental Appeal has also been dismissed preferred on behalf of the applicant.

12. Perusal of the record also reveals that applicant was convicted and sentenced in the trial on dated 03.05.2010. He had moved an application for joining before the competent authority on 24.12.2010 after being released on bail in the criminal appeal. It is also evident from the record that applicant was permitted to join the duty on 19.01.2011 and he was continuously performing his duties till the date of removal, meaning thereby that applicant was permitted to join the duty on dated 19.01.2011 after consideration of the conduct of the applicant which led to his conviction. If the date of joining after releasing on bail and the date of removal from service is taken into consideration it is about four years. No action was taken during that period. It is a surprising fact that suddenly two days before his retirement, he was removed from service on that very ground. If his conduct was not suitable to retain in the service as has been provided in the Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968, respondents ought not to have permitted the applicant to join the duty. Once they permitted the applicant to join the duty after releasing on bail in the criminal appeal it shall be presumed that considering the conduct of the applicant which has led to his conviction was not found sufficient to remove the services of the applicant immediately after his conviction. It shall also be presumed that the applicant found suitable to continue in the service despite his conviction in the criminal case. Suddenly, vide order dated 29.01.2015, two days before his superannuation applicant on the same ground on which he was permitted to join the duty on 19.01.2011 was found not sufficient to retain in the service. Action of the respondents is not in consonance with the settled legal preposition of law. If he was not suitable to continue in the service, he must not have been permitted on dated 19.01.2011 itself. It appears that without considering the settled proposition of law and the Aim and object of provisions of Rule 14 (1) of the Railway Servants (Discipline & Appeal) Rules, 1968, respondents have removed the applicant from service arbitrarily, thus we are of the opinion that relief claimed in the matter are liable to be allowed. Removal orders for the reasons discussed hereinabove are liable to be set aside. Appellate authority order is also not sustainable.

13. Accordingly, O.A. is allowed. Orders passed by disciplinary authority as well as appellate authority 29.01.2015 and 06.04.2016 are hereby set aside. Respondents are directed to release the post retiral benefits of the applicant treating him as no punishment order has ever been passed upon him. Since

applicant was compelled to be out of service by the impugned orders two days before his superannuation, thus respondents are also hereby directed to regularize the two days period into any kind of leave available in his account and if leave is not available extraordinary leave be granted to the applicant for that particular period of two days. The above exercise shall be completed within three months from the date of receipt of this order. All associated M.A's stand dispose of. No costs.